



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-893

Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Preliminary Reconsideration of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce ("Department") has received information sufficient to warrant reconsideration of a completed changed circumstances review ("CCR") of the antidumping duty order on certain frozen warmwater shrimp from the People's Republic of China ("PRC") originally conducted in 2007.<sup>1</sup> Based on evidence uncovered in the sixth administrative review ("AR6") of this proceeding,<sup>2</sup> we find the information submitted by Hilltop International ("Hilltop")<sup>3</sup> in this CCR contains material misrepresentations and, consequently, is unusable for any purposes. Accordingly, our original determination that Hilltop is the successor-in-interest to Yelin Enterprise Co. Hong Kong ("Yelin") is preliminarily reversed such that Hilltop should

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<sup>1</sup> See Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results of Changed Circumstances Review, 72 FR 33447 (June 18, 2007).

<sup>2</sup> See Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 77 FR 53856, and accompanying Issues and Decision Memorandum.

<sup>3</sup> Hilltop is affiliated with Yangjiang City Yelin Hoitat Quick Frozen Seafood Co., Ltd., Fuqing Yihua Aquatic Food Co., Ltd., Yelin Enterprise Co., Ltd., Ocean Beauty Corporation, Ever Hope International Co., Ltd., Ocean Duke Corporation and Kingston Foods Corporation. Further, the Department has found Hilltop, Yelin Enterprise Co., Ltd., Ocean Beauty Corporation, and Ever Hope International Co., Ltd. to be a single entity. See Certain Frozen Warmwater Shrimp From the People's Republic of China: Preliminary Results, Partial Rescission, Extension of Time Limits for the Final Results, and Intent To Revoke, in Part, of the Sixth Antidumping Duty Administrative Review, 77 FR 12801, 12804 (March 2, 2012); unchanged in Administrative Review of Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review, 76 FR 51940 (August 19, 2011).

properly be considered part of the PRC-wide entity, absent a determination of its own rate, separate from the PRC-wide entity.<sup>4</sup>

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

### Background

Yelin was formally dissolved on December 12, 2006.<sup>5</sup> On March 16, 2007, Hilltop filed a submission requesting that the Department conduct a CCR of the antidumping duty order on certain frozen warmwater shrimp from the PRC to confirm that Hilltop is the successor-in-interest to Yelin.<sup>6</sup> On May 2, 2007, the Department published a combined initiation and preliminary results finding that Hilltop was the successor-in-interest to Yelin.<sup>7</sup> On June 18, 2007, this finding was confirmed in the final results of this CCR.<sup>8</sup>

On December 5, 2012, we determined that we would reconsider this CCR determination in light of certain evidence discovered in AR6.<sup>9</sup> On December 13, 2012, the Department placed

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<sup>4</sup> See, e.g., Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Results of Changed Circumstances Review, 75 FR 46914, 46916 (August 4, 2010); Frozen Warmwater Shrimp from Vietnam: Notice of Final Results of Antidumping Duty Changed Circumstances Reviews, 74 FR 42050, 42051 (August 20, 2009).

<sup>5</sup> See Letter from Hilltop to the Secretary of Commerce "Request for Expedited Changed Circumstances Determination" (March 16, 2007).

<sup>6</sup> See *id.*

<sup>7</sup> Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, 72 FR 24273 (May 2, 2007).

<sup>8</sup> See Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results of Changed Circumstances Review, 72 FR 33447 (June 18, 2007).

<sup>9</sup> See Letter to All Interested Parties from Catherine Bertrand, Program Manager, Office 9, "Certain Frozen Warmwater Shrimp from the People's Republic of China: Reopening the Record of Changed Circumstance Review" (December 5, 2012).

public documents submitted in AR6 on the record of this proceeding.<sup>10</sup> On December 17, 2012, the Department placed documents containing business proprietary information obtained during the first administrative review and AR6 on the record of this proceeding.<sup>11</sup>

On December 31, 2012, the Department received comments from Petitioner on the documents placed on the record of this CCR.<sup>12</sup> On January 7, 2013, the Department received rebuttal comments from Hilltop.<sup>13</sup>

### Scope of Order

The merchandise that is subject to the order is certain frozen warmwater shrimp from the PRC. The products subject to the order at the time of this CCR was originally conducted<sup>14</sup> were classified under U.S. Harmonized Tariff Schedule (“HTSUS”) subheadings 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise remains dispositive.<sup>15</sup>

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<sup>10</sup> See Memo to the File from Kabir Archuletta, International Trade Analyst, Office 9, “Placing Documents on the Record of Changed Circumstances Review” (December 13, 2012).

<sup>11</sup> See Memo to the File from Kabir Archuletta, International Trade Analyst, Office 9, “Placing Documents on the Record of Changed Circumstances Review” (December 17, 2012).

<sup>12</sup> See Letter from the Ad Hoc Shrimp Trade Action Committee to the Secretary of Commerce “Comments on Record Evidence” (December 31, 2012).

<sup>13</sup> See Letter from Hilltop to the Secretary of Commerce “Hilltop Rebuttal Comments: Certain Frozen Warmwater Shrimp from the PRC: Reopening the Record of Changed Circumstances Review” (January 7, 2013).

<sup>14</sup> We note that on April 26, 2011, the Department amended the antidumping duty order to include dusted shrimp, pursuant to the U.S. Court of International Trade (“CIT”) decision in Ad Hoc Shrimp Trade Action Committee v. United States, 703 F. Supp. 2d 1330 (CIT 2010) and the U.S. International Trade Commission determination, which found the domestic like product to include dusted shrimp. See Certain Frozen Warmwater Shrimp From Brazil, India, the People’s Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011). The scope referenced here is the scope that was in effect when the Department conducted this original CCR proceeding.

<sup>15</sup> See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the People’s Republic of China, 70 FR 5149 (February 1, 2005).

### Preliminary Reconsideration

For a full description of our findings in this preliminary reconsideration, please see the Preliminary Reconsideration Memorandum.<sup>16</sup> The Preliminary Reconsideration Memorandum is a public document on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Reconsideration Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Preliminary Reconsideration Memorandum and the electronic versions of the Preliminary Reconsideration Memorandum are identical in content.

For the reasons detailed in the Preliminary Reconsideration Memorandum, we preliminarily determine that Hilltop is not the successor-in-interest to Yelin and is considered part of the PRC-wide entity. In making this determination we have relied on adverse facts available, in accordance with section 776(a) and (b) of the Tariff Act of 1930, as amended ("the Act").

### Public Comment

Any interested party may request a hearing within 14 days of publication of this notice in accordance with 19 CFR 351.310(c). Interested parties may submit case briefs no later than 14 days after the date of publication of this notice, in accordance with 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed no later than five days after the case briefs, in accordance with 19 CFR 351.309(d)(1). Any hearing, if

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<sup>16</sup> See "Decision Memorandum for Preliminary Reconsideration of Changed Circumstances Review: Certain Frozen Warmwater Shrimp from the People's Republic of China," ("Preliminary Reconsideration Memorandum") from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with these results and hereby adopted by this notice.

requested, will normally be held two days after rebuttal briefs are due, in accordance with 19 CFR 351.310(d)(1).

The Department will issue its final results of review within 270 days after the date on which the preliminary reconsideration of this CCR is published in the Federal Register, or within 45 days if all parties to the proceeding agree to the outcome of the review, in accordance with 19 CFR 351.216(e), and will publish these results in the Federal Register.

The current requirement for a cash deposit of estimated antidumping duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this CCR. We note that Hilltop was determined to be part of the PRC-wide entity in AR6 and is currently subject to the cash deposit requirements applicable to the PRC-wide entity.

This notice is published in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216.

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Paul Piquado  
Assistant Secretary  
for Import Administration

February 21, 2013  
Date

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